

Court of Appeals, State of Michigan

ORDER

Prudential Ins Co of Am v Charles E McMahon

Docket No. 258956

LC No. 01-000487-CH

Helene N. White

Presiding Judge

Kurtis T. Wilder

Karen M. Fort Hood

Judges

The Court orders that the motion to dismiss pursuant to MCR 7.211(C)(2)(a) is GRANTED, and the claim of appeal is DISMISSED for lack of jurisdiction. Since the January 2002 default judgment and the March 2002 judgment disposed of all the claims and adjudicated the rights and the liabilities of all the parties, appellants had 21 days to file either a claim of appeal or a postjudgment motion challenging these orders. MCR 7.202(6)(a)(i), 7.203(A)(1), 7.204(A)(1)(a), and 7.204(A)(1)(b). When appellants failed to file one of these pleadings within the time allotted, this Court lost jurisdiction to hear an appeal of right. *Baitinger v Brisson*, 230 Mich App 112, 115-116; 583 NW2d 481 (1998). Moreover, appellants cannot now claim an appeal from the October 11, 2004 order denying their motion to set aside the foreclosure and for a preliminary injunction since this type of order is a postjudgment order that is not appealable as of right in and of itself. See, e.g., *Allied Electric Supply Co v Tenaglia*, 461 Mich 285, 288; 602 NW2d 572 (1999) (an order denying an untimely motion to set aside a default judgment is a postjudgment order that is not appealable as a matter of right). If appellants still want to challenge the October 11, 2004 order, they must file a delayed application for leave to appeal under MCR 7.205. See MCR 7.203(B)(1).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 21 2005

Date

Sandra Schultz Mengel
Chief Clerk